

GERARD CONTINUES RUTLAND INJUNCTION

New Haven Railroad Not Free
Yet to Buy Control of the
Rutland.

SHERMAN LAW INVOLVED

question Hinges on Possible
Competition Between Rutland
and Boston and Maine.

It was announced yesterday that an appeal would be argued as soon as the Appellate Division of the Supreme Court met in October in the case of the decision by Supreme Court Justice Gerard yesterday continuing the injunction obtained by the minority stockholders of the Rutland Railroad restraining the New York Central from selling and the New York, New Haven and Hartford from buying the majority stock of the Rutland.

The up-state Public Service Commission already has approved the sale upon practically the same facts as were before Justice Gerard, but counsel for the minority has contended before the court that the commission is in league with the New York Central.

The injunction was asked for on the ground that the Rutland was "potentially as well as actually" a competitor of the New Haven, and that the sale accordingly was in violation of the Federal anti-trust laws.

In his opinion Justice Gerard says that while the Public Service Commission authorized the sale of the Rutland to the New Haven it made no provision for the protection of the Rutland's minority stockholders, and in reply to the contention of the defendants that a suit under the Federal law cannot be brought in the State Court Justice Gerard says that all acts forbidden by the Sherman act are declared to be illegal, and he does not believe that there has been any decision that a person directly injured cannot maintain a suit to restrain a violation that may injure him in respect to the very matters involved in the illegal transaction. The court said that the only standing the plaintiffs have is in case the Rutland and the New Haven are competing lines.

Justice Gerard says:

"A reading of the affidavits submitted

shows that the Rutland and the New Haven, through its ownership of the Boston and Maine, are competing lines.

The only answer made by the defendant to the geographical facts of the location of the lines is that the grades of the lines owned by the New Haven, which lie almost geographically parallel to the Rutland,

are not comparable in price, but it is impossible but I suppose that no two competing roads in the world have the same grades, nor can any court take such a question into consideration, for at just what difference of per cent. of grade should the courts allow one competing line to purchase control of another?"

The court ruled that the damage to the plaintiffs, in addition to the losses and forfeitures, which the road might incur, is the mere fact of control by the competing line, the threatened violation of the Sherman law. They are not bound to shelter their property is destroyed by the acts of the majority, who may use their power to destroy the value of the minority's property. The illegal acts should be prevented now."

Justice Gerard says that President Mellon of the New Haven has admitted that the stock of the Rutland, intrinsically and as mere stock, is worth only about \$40 a share, but that to the New Haven the stock control is worth over \$100 a share. The court remanded the case to the New Haven to possibly increase the traffic to be sent over the Rutland, as it promises to do, "it has in its power, however, if it controls it, to decrease that traffic until it has acquired the minority stock at low figures or even permitted the road to default on its bonds and be sold at a discount."

The court directs the plaintiff to file a bond of \$5,000 pending the final decision in the case.

WABASH PLAN PROPOSED.

Stockholders Object to Being Assessed to Retire Bond Issues.

Some opposition is being raised to the plan of reorganization of the Wabash, which is now almost ready for public announcement, and the main features of which have been discussed unofficially in Wall Street for some time. The opposition, it is understood, has expressed against the plan of utilizing proceeds of the assessment on the preferred and common stockholders toward the retirement of the remaining bonds.

Opponents of this measure in the reorganization plan argue, it is understood, that stockholders should not be called upon to raise money to cancel a bond issue, but that all money so raised should be put into the plan proposed for the reorganization, there is a special need for such expenditure. The answer by the bankers of the reorganization plan is that the company has been forced to do this, and this is the only issue of bonds proposed for retirement is wiped out and the company is enabled to obtain money on bonds that will bring a satisfactory result.

The company is pointed out, has never been able to raise money in satisfactory returns on the present issue, refunding \$40 million in 1911, and the expenses of the money raised on assessment in improvement of the property would only be temporary and that when the benefit of the assessment is used off in a short term of years, the company would still find difficulty to obtain future money on the old bond issue.

It is pointed out that the road betterment plan submitted by J. C. Stubbs calls for gradual expenditure for development and not for the establishment of a large amount of overhead such as the assessment would require for carrying out all the recommendations at once."

THE BUSINESS OUTLOOK.

Growing Optimism is Evident and Present Trade is Satisfactory.

The trade reviews to-day report growing optimism, with present trade satisfactory. They emphasize the good prospects for the future. *Dun's Review* says:

"Business is satisfactory and in some important lines active notwithstanding the usual summer slowing up and the stock taking incidents of the year.

Moreover, prospects for business are, and the characteristic feature of the week's reports from the leading trade and industrial centers in all sections of the country is the expanding and deepening optimism."

"Confidence is in a considerable degree based on the belief that nothing but a crop failure or other unforeseen calamity can now check the improvement that has set in, and it is noteworthy that nowhere is the optimism more marked than in the agricultural sections. The week's crop news is favorable, especially as to wheat, the timely rains having further improved conditions. Corn is also making satisfactory progress, and the cotton report, while revealing a reduction in acreage, shows a gain in condition.

"The financial situation is excellent."

EARLY OPENING ON JULY 18.

Consolidated Exchange President Announces 9:30 o'clock Start.

The Consolidated Stock Exchange will initiate its plan for daily opening at 9:30 A.M. on July 18. The board of governors recently voted to adopt this earlier hour of opening and power was given to President and Vice-President to fix the time for the annual election. The president has sent notices to members, notifying them of this change in the by-laws.

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LIVE STOCK MARKET.

Friday, July 5. Livestock sales for two days were 2,360 head, including cattle, sheep and hogs, and average higher than last week. Common lambs sold at \$6.50 per head, 100 lbs. and 120 lbs., and calves at \$10 per head for the first two days.

Calves were 80c per head, including 100 lbs. and 120 lbs. and average higher than last week. Common lambs sold at \$6.50 per head, 100 lbs. and 120 lbs., and calves at \$10 per head for the first two days.

Sheep and lambs were 110c head, including 100 lbs. and 120 lbs. and average higher than last week. Common lambs sold at \$6.50 per head, 100 lbs. and 120 lbs., and calves at \$10 per head for the first two days.

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